FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 193/2001
(Smt. Sandhyabai Krishnarao Tekade Vs. Smt. Kokila Bhaurao Tekade & 3 others)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. B.N. Mohta, Adv. for the appellant.
Mr. A.V. Gawande, Adv. for the respondents.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 23rd July, 2007.

Heard the learned counsel for the parties.

The appellant is the original plaintiff. A suit was filed by the plaintiff for specific performance of contract of sale of house property. It is not in dispute that the defendant no.1 had agreed to sell the house property as well as the field to the plaintiff in view of the agreement of sale executed between the parties. It is further not in dispute that the defendant no.1 executed a registered sale deed in respect of the field property in favour of the plaintiff. Though the agreement of sale was executed in the year 1989, there was nothing on record to show that the plaintiff had ever approached the defendant no.1 to get the sale deed executed in respect of the house property. There was further no evidence tendered by the plaintiff to show that she was ready and willing to perform her

part of the contract so as to purchase the house property. The suit was filed by the plaintiff after the defendant no.1 sold the house property to the defendant no.2 for a valuable consideration.

Both the Courts have, therefore, recorded a clear finding of fact that the plaintiff was not ready and willing to perform her part of the contract. The findings recorded by both the Court for dismissing the suit for specific performance of contract and refund of amount, are based on a proper appreciation of the material evidence on record.

Since no substantial question of law arise for consideration in this second appeal, same is dismissed with no order as to costs.

JUDGE

RMP